

June 8, 2012

## SUBCHAPTER 5. AUDIT PROCEDURES

### 7:26I-5.1 Purpose

(a) The auditing of the submissions and conduct of LSRPs is a means to ensure that LSRPs' highest priority in the performance of professional services is the protection of public health and safety and the environment.

(b) The Site Remediation Reform Act at N.J.S.A. 58:10C-24 requires the Board to audit annually the submissions and conduct of at least 10 percent of the total number of LSRPs.

(c) This subchapter sets forth the Board's procedures for conducting audits, and it establishes the audit compliance requirements for LSRPs.

(d) Board members are obligated to follow the conflict of interest provisions enumerated in the New Jersey Conflict of Interest Law, the State Ethics Commission Regulations and the Board's By-Laws adopted on January 10, 2011. These provisions require members of the Board to recuse themselves in the event of a conflict of interest.

(e) The auditing of the submissions and conduct of LSRPs by the Board is separate and distinct from the Department's inspection of documents and information submitted by an LSRP and review of the performance of remediations pursuant to N.J.S.A. 58:10C-21.

### 7:26I-5.2 Scope

(a) This subchapter contains provisions that govern the:

1. Process for the selection of LSRPs to be audited by the Board at 7:26I-5.3;
2. Audit review process to be followed by the Board at 7:26I-5.4;
3. Outcome of an audit at 7:26I-5.5; and
4. Failure to cooperate with an audit at 7:26I-5.6.

### 7:26I-5.3 Selection of LSRPs to be Audited

(a) The Board shall calculate the number of LSRPs to be audited each calendar year.

(b) The number of LSRPs audited each calendar year shall be equal to at least 10 percent of the total number of LSRPs.

(c) The Audit Committee of the Board shall oversee the selection, using a random process, of the specific LSRPs who are to be audited.

(d) The names of the LSRPs to be audited will be known only to the members of the Audit Review Team and to the Board staff assisting in the audit. The names shall not be made public at the time of the audit selection.

(e) The number of audits conducted shall be distributed throughout the calendar year to satisfy the total for the year.

(f) LSRPs who are under investigation by the Board pursuant to N.J.A.C. 7:26I-7 et seq. shall be exempt from audits until such time as the investigation is complete.

(g) An LSRP shall be audited no more than once per calendar year.

#### 7:26I-5.4 Audit Review Process

(a) An Audit Review Team (“ART”) with two or more members, consisting of at least one Board Member who is an LSRP, shall be established by the Audit Committee to oversee the audit process.

(b) A special ART shall be assembled for audits of LSRPs who are Board members which shall consist of:

1. The Chairperson of the Board;
2. One Board member who is not an LSRP that represents the environmental community;
3. One Board member who is not an LSRP that represents the business community; and
4. One Board member who is an LSRP.

(c) Upon the convening of an ART for the audit, the Board staff shall advise the ART of the identities of the LSRPs to be audited.

(d) Each ART member shall certify that he is free of conflict with the subject of the audit, and can fairly and objectively conduct or oversee the audit.

(e) Following the selection of LSRPs to be audited, the Board Secretary shall notify the subjects of the audits of the commencement of the audits. The notification letter shall be delivered by certified mail or personal service and shall include:

- (1) A request for a response to the audit requirements; and
- (2) Any additional documentation requested in the audit requirements.

(f) The ART may direct requests for information to persons responsible for conducting remediation on sites that the LSRP has worked on and any other third parties, including the Department, that may have information concerning the LSRP and any sites that the LSRP has worked on.

(g) An LSRP and the person responsible for conducting the remediation shall cooperate with the Board in the conduct of the audit and shall provide any information requested by the Board as part of the audit.

(h) The ART will review the submissions and conduct of the LSRP to ensure that:

1. The LSRP's conduct in the performance of professional services has complied with the standards of professionalism set forth by the Site Remediation Reform Act, N.J.S.A. 58:10C et seq. or any rule, regulation, code of conduct or order adopted or issued pursuant thereto;

2. The LSRP has not knowingly made any false statement, representation, or certification in any documents or information required to be submitted to the Board or the Department; and

3. The LSRP's highest priority in the performance of professional services has been the protection of public health and safety and the environment .

#### 7:26I-5.5 Outcome of an Audit

(a) Upon conclusion of its audit review, the ART shall make a determination whether the LSRP's submissions and conduct have met the standards in N.J.A.C. 7:26I-5.4(h).

(b) Upon a determination by the ART that the LSRP's submissions and conduct have met the standards in N.J.A.C. 7:26I-5.4(h), the ART shall submit a report to the Audit Committee of the Board stating the LSRP's name, its findings and a recommendation that the audit is complete.

1. Upon receipt of a recommendation that the audit is complete, the Audit Committee shall determine whether to conclude the audit, or refer the audit back to the ART for further review.

2. Upon a determination that the audit is complete and concluded, the Audit Committee shall report to the Board the name of the LSRP whose audit is complete and concluded.

3. The Board shall notify the LSRP in writing of the outcome of the audit, and post the LSRP's name and audit outcome on the Board Website.

(c) Upon a determination by the ART that the LSRP's submissions and conduct have not, or may have not, met the standards in N.J.A.C. 7:26I-5.4(h), the ART shall submit a report to the Audit Committee of the Board stating its findings and a recommendation for further investigation.

(d) Upon receipt of a report by the ART recommending further investigation, the Audit Committee of the Board shall refer the audit to the Professional Conduct Committee of the Board which shall convene a Complaint Review Team to commence an investigation pursuant to N.J.A.C. 7:26I-7.5.

#### 7:26I-5.6 Failure to Cooperate with Audit

(a) An LSRP and the person responsible for conducting the remediation shall cooperate with the Board in the conduct of the audit and shall provide any information requested by the Board as part of the audit.

(b) Failure to cooperate with the Board in the conduct of the audit shall be the grounds for commencement of disciplinary action pursuant to N.J.A.C. 7:26I-7.1 et seq.

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